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10/630,532	07/30/2003	Daniel R. Morris	037925.0005	9256

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EXAMINER

MEYERS, MATTHEW S

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/630,532	Applicant(s) MORRIS, DANIEL R.	
	Examiner MATTHEW MEYERS	Art Unit 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's communication on 3/20/08, wherein claims 1-31 are currently pending.

Priority

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. With respect to claims 1 and 10, how does applicant identifying at least one lien where a note underlying the at least one lien has been satisfied, and identifying whether the at least one lien in said database is due for release? Where is the tracking mechanism? Does applicant only have the capability to track liens in his data base?

6. With respect to claims 19 and 21, how does applicant determine whether a lien record associated with said at least one lien can be tracked electronically and whether the at least one lien is due for release as a result of a note underlying the at least one

lien having been satisfied? Is this a result of the providing step above? Does applicant only have the capability to track liens in his data base?

7. With respect to claims 23 and 30, how does applicant request a determination as to whether the at least one lien has been released where a note underlying the at least one lien has been satisfied? Is this a result of the providing server access above? Does applicant only have the capability to track liens in his data base? Where is the tracking mechanism? Does applicant's server have to access the plurality of record-keeping jurisdictions each time when performing the method step each time for the same lien like in the repeating steps of claim 1?

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. With respect to claims 1 and 19, the claim language does not include the required tie or transformation and thus is directed to nonstatutory subject matter.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claims 1-4, 7-9, 10-13, 16-18, 19-26, and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over MERS aids electronic mortgage program; Mortgage Electronic Registration Systems Inc.; Cover Story, Mortgage Bankers Association of America, January 1997, No. 4, Vol. 57; Pg. 42 (Hereinafter Mortgage Bankers) in view of MERS® Integration Handbook, Vol. II, Version 11.0, May 19, 2002 (Hereinafter MERS® Integration Handbook) and further in view of Cohen (Pub. No.: 2003/0050891).

13. With respect to **Claims 1 and 10**:

14. Mortgage Bankers discloses a method and system for managing lien releases, (Mortgage Bankers, Page 1, "The ambitious new book-entry electronic system for

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tracking ownership of servicing rights is set for an April 1997 rollout."), comprising the steps of:

- a. (a) providing access to lien records for a plurality of lien record-keeping jurisdictions, each of said lien records including a respective lien holder entry (Mortgage Bankers, Page 1, "Knutson will record the mortgage or deed of trust in public land records, just as it does today.");
- b.
- c. (c) identifying whether at least one lien holder is subject to an action for non- release of a lien (Mortgage Bankers, Page 5, "He notes that all parties will more easily be able to track loans to ensure that contractual obligations are being met." and Page 6, "Until then, they are hoping that MERS will enforce lien-release requirements.");
- d. (d) repeating steps (b) and (c) at given time intervals (Mortgage Bankers, Page 1, "MERS then electronically will track ownership and servicing transfers on that loan."); and
- e. Mortgage Bankers discloses all the above limitations. Additionally, Mortgage Bankers discloses that "MERS then electronically will track ownership and servicing transfers on that loan." The Examiner interprets this to be a tracking feature which notifies its users whether a lien has been satisfied. However, Mortgage Banker does not explicitly disclose (b) identifying at least one lien where a note underlying the at least one lien has been satisfied, and identifying whether the at least one lien in said database is due for release.

f. Cohen teaches a method and system for registration and tracking of items which includes liens (Cohen [abs]). Cohen additionally, identifies where at least one lien where a note underlying the lien (Examiner notes that the Cohen reference explicitly discloses wherein the "item" described in the title of the invention can be a lien) has been satisfied (Cohen, Fig 11, item 504, "Payee present check for payment") and then identifies whether the lien is due for release (Cohen Fig. 11, item 516, "Bank releases funds").

g. It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the access to lien records and identification of holders subject to an action of Mortgage Banker with the method and system for registration and tracking of items in Cohen in order to enforce the lien releases and identify when they are due for release without having to contact any additional loan servicing agent. This would allow the user to access the electronic database in order to perform the proper checks and balances, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

h. (e) Neither Mortgage Banker nor Cohen explicitly discloses presenting a report of a subset of said lien records, said report including the identification of any liens due for release and any lien holders subject to penalty for non-release associated with said subset.

i. However, MERS® Integration Handbook teaches several different reports which present a report of a subset of liens due for release and those subject to

action to penalty for non-release (MERS® Integration Handbook, Appendix D). It would have been obvious to one of ordinary skill in the art to combine the MERS® Integration Handbook with the Mortgage Banker's article since the Mortgage Banker's article discusses the MERS® system and Cohen.

Furthermore, since MERS® had been performing these services since at least 1997 it would have been obvious at the time of the invention to have incorporated the methods and techniques that attorney's and other conveyance related personnel have been using for years into an automated system, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

15. With respect to **Claims 2 and 11**:

16. MERS® Integration Handbook discloses wherein step (e) is operable upon receiving a request (Page 109).

17. With respect to **Claims 3 and 12**:

18. MERS® Integration Handbook discloses wherein step (e) is operable upon detection of a change in said identified liens or lien holders (Appendix D).

19. With respect to **Claims 4 and 13**:

20. MERS® Integration Handbook discloses the step of: (f) identifying released liens (Page 109).

21. With respect to **Claims 7 and 16**:

22. MERS® Integration Handbook discloses wherein step (a) involves providing real-time access to said plurality of jurisdictions at substantially the same time (Page 8-10).

23. With respect to **Claims 8 and 17**:

24. MERS® Integration Handbook discloses wherein said given time intervals are established by individual request (Appendix D) (Examiner notes that there are several different intervals for running reports, ranging from a users request, to daily, weekly, etc...).

25. With respect to **Claims 9 and 18**:

26. MERS® Integration Handbook discloses wherein steps .(a) through (e) are controlled by a network- accessible server (Page 8).

27. With respect to **Claims 19 and 21**:

28. Mortgage Bankers discloses a method and system for managing lien releases, comprising the steps of:

- j. receiving transactional information related to at least one lien (Mortgage Bankers Page 1, "Knutson will record the mortgage or deed of trust in public land records, just as it does today.");
- k. providing at least one electronic document based on said transactional information (MERS, Page 109);
- l. searching for said lien record (MERS, Page 109);
- m. receiving search results associated with said lien record (MERS, Page 109); and
- n. presenting a report identifying a release status associated with said lien record (MERS, Page 109).

o. Mortgage Bankers discloses all the above limitations. Additionally, Mortgage Bankers discloses that "MERS then electronically will track ownership and servicing transfers on that loan." The Examiner interprets this to be a tracking feature which notifies its users whether a lien has been satisfied. However, Mortgage Banker does not explicitly disclose determining whether a lien record associated with said at least one lien can be tracked electronically and whether the at least one lien is due for release as a result of a note underlying the at least one lien having been satisfied.

p. Cohen teaches a method and system for registration and tracking of items which includes liens (Cohen [abs]). Cohen additionally, identifies where at least one lien where a note underlying the lien (Examiner notes that the Cohen reference explicitly discloses wherein the "item" described in the title of the invention can be a lien) has been satisfied (Cohen, Fig 11, item 504, "Payee present check for payment") and then identifies whether the lien is due for release (Cohen Fig. 11, item 516, "Bank releases funds").

q. It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the access to lien records and identification of holders subject to an action of Mortgage Banker with the method and system for registration and tracking of items in Cohen in order to enforce the lien releases and identify when they are due for release without having to contact any additional loan servicing agent. This would allow the user to access the electronic database in order to perform the proper checks and balances, since so doing

could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

29. With respect to **Claims 20 and 22**:

30. Mortgage Bankers discloses wherein said searching step includes initiating communications to determine whether Said lien has been released to at least one of: a payoff lender, a settlement agent, a courthouse, a third party title insurance underwriter (Mortgage Bankers Page 1, "Knutson will record the mortgage or deed of trust in public land records, just as it does today.").

31. With respect to **Claim 23**:

32. Mortgage Bankers discloses a method for brokering lien release information, comprising the steps of:

r. providing a network-accessible server having access to lien record information for a plurality of lien record-keeping jurisdictions, said server further having access to a database of electronic documents associated with at least one lien status, and further having means for identifying a lien status based on transaction information and jurisdiction information associated with a lien (Mortgage Bankers, Page 1, "Knutson will record the mortgage or deed of trust in public land records, just as it does today.");

s. providing at least one user interface capable of accessing said server for inputting identification and transaction information pertaining to at least one lien;

t. Mortgage Bankers discloses all the above limitations. Additionally, Mortgage Bankers discloses that "MERS then electronically will track ownership

and servicing transfers on that loan." The Examiner interprets this to be a tracking feature which notifies its users whether a lien has been satisfied.

However, Mortgage Banker does not explicitly disclose providing at least one user interface capable of accessing said server for requesting at least one search in connection with at least one lien and for requesting the at least one lien has been released where a note underlying the at least one lien has been satisfied.

u. Cohen teaches a method and system for registration and tracking of items which includes liens (Cohen [abs]). Cohen additionally, identifies where at least one lien where a note underlying the lien (Examiner notes that the Cohen reference explicitly discloses wherein the "item" described in the title of the invention can be a lien) has been satisfied (Cohen, Fig 11, item 504, "Payee present check for payment") and then identifies whether the lien is due for release (Cohen Fig. 11, item 516, "Bank releases funds").

v. It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the access to lien records and identification of holders subject to an action of Mortgage Banker with the method and system for registration and tracking of items in Cohen in order to enforce the lien releases and identify when they are due for release without having to contact any additional loan servicing agent. This would allow the user to access the electronic database in order to perform the proper checks and balances, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

w. Mortgage Banker and Cohen disclose all the above limitations, but do not explicitly disclose a user interface capable of accessing said server for requesting the generation of at least one document in connection with at least one lien nor does it explicitly disclose a one user interface capable of accessing said server for displaying status information related to at least one lien. However, MERS® Integration Handbook teaches accessing said server for requesting the generation of at least one document in connection with at least one lien (MERS, Page 7) and providing at least one user interface capable of accessing said server for displaying status information related to at least one lien (MERS, page 14). It would have been obvious to one of ordinary skill in the art to combine the MERS® Integration Handbook with the Mortgage Banker's article since the Mortgage Banker's article discusses the MERS® system and Cohen.

Furthermore, since MERS® had been performing these services since at least 1997 it would have been obvious at the time of the invention to have incorporated the methods and techniques that attorney's and other conveyance related personnel had been doing for years into an automated system, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

33. With respect to **Claim 24:**

34. MERS discloses providing at least one user interface capable of accessing said server for requesting notification of a change in status information pertaining to at least one lien (Appendix D).

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35. With respect to **Claim 25**:

36. MERS discloses wherein said lien record information includes at least one of title information, recording information, indexing information, and financial information (Appendix D).

30. With respect to **Claim 26**:

37. MERS discloses wherein said lien transaction information includes at least one of a date of settlement, a date of disbursement and a date of notice of payoff payment to a lender (MERS, at least Page 25).

38. With respect to **Claim 28**:

39. MERS discloses wherein said lien identification information includes at least one of an obligor, a lien holder, a loan amount, a payee identifier and a lien jurisdiction (Appendix D).

40. With respect to **Claim 29**:

41. MERS discloses wherein said lien status information includes at least one of pending payment, awaiting statutory limit expiration, queued for search, searched by title searcher, awaiting search results, awaiting settlement agency release, pending demand, released and disbursement archived (Appendix D).

42. With respect to **Claim 30**:

43. MERS discloses a system for brokering lien release information, comprising: a network-accessible server having access to lien record information for a plurality of lien record-keeping jurisdictions, said server further having access to a database of electronic documents associated with at least one lien status, and further having means

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for identifying a lien status based on lien transaction information and lien jurisdiction information (MERS, Page 5);

- x. at least one user interface capable of accessing said server for inputting identification and transaction information pertaining to at least one lien (MERS, Page 5);

- y. at least one user interface capable of accessing said server for requesting at least one search in connection with at least one lien (MERS, Page 5);

- z. at least one user interface capable of accessing said server for displaying status information related to at least one lien (MERS, Page 5); and

- aa. at least one user interface capable of accessing said server for requesting the generation of at least one document in connection with at least one lien and for requesting a determination as to whether the at least one lien has been released where a note underlying the at least one lien has been satisfied (MERS, Page 5).

- bb. Mortgage Bankers discloses all the above limitations. Additionally, Mortgage Bankers discloses that "MERS then electronically will track ownership and servicing transfers on that loan." The Examiner interprets this to be a tracking feature which notifies its users whether a lien has been satisfied. However, Mortgage Banker does not explicitly disclose at least one user interface capable of accessing said server for requesting the generation of at least one document in connection with at least one lien and for requesting a

determination as to whether the at least one lien has been released where a note underlying the at least one lien has been satisfied.

cc. Cohen teaches a method and system for registration and tracking of items which includes liens (Cohen [abs]). Cohen additionally, identifies where at least one lien where a note underlying the lien (Examiner notes that the Cohen reference explicitly discloses wherein the "item" described in the title of the invention can be a lien) has been satisfied (Cohen, Fig 11, item 504, "Payee present check for payment") and then identifies whether the lien is due for release (Cohen Fig. 11, item 516, "Bank releases funds").

dd. It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the access to lien records and identification of holders subject to an action of Mortgage Banker with the method and system for registration and tracking of items in Cohen in order to enforce the lien releases and identify when they are due for release without having to contact any additional loan servicing agent. This would allow the user to access the electronic database in order to perform the proper checks and balances, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

44. With respect to **Claim 31**:

45. MERS discloses at least one user interface capable of accessing said server for requesting notification of a change in status information pertaining to at least one lien (MERS, page 14).

46. **Claims 5-6, and 14-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mortgage Bankers in view of MERS® Integration Handbook, and in view of Cohen as applied to claims 1-4, 7-9, 10-13, and 16-18 above, and further in view of Feinberg et al. (Pub. No.: US 2002/0107703) (Hereinafter referred to as Feinberg).

47. With respect to **Claims 5 and 14**:

48. Neither MERS® Integration Handbook nor Mortgage Bankers explicitly discloses the step of: (f) providing a database of jurisdictional- specific rules regarding lien releases. However, Feinberg teaches a database with guidelines from different jurisdictions stored in a database. (Feinberg [0016], "The release is prepared according to guidelines from each jurisdiction previously stored on the database."). It would have been Obvious to at the time of the invention to combine the teachings of Feinberg with those of the MERS® Integration Handbook and Mortgage Banking in order to confirm jurisdictional compliance. These references would have been obvious to incorporate as they both involve lien management and both are able to be in electronic communication with a network.

49. With respect to **Claims 6 and 15**:

50. Feinberg discloses the step of: (g) providing a database of documents associated with said rules (Feinberg [0016], "The release is prepared according to guidelines from each jurisdiction previously stored on the database.").

51. **Claim 27** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mortgage Bankers in view of MERS® Integration Handbook, and in view of Cohen as

applied to claim 23 above, and further in view of Feinberg et al. (Pub. No.: US 2002/0107703) (Hereinafter referred to as Feinberg).

52. Neither MERS® Integration Handbook nor Mortgage Bankers explicitly discloses wherein said lien jurisdiction information includes a statutory time limit for releasing liens upon satisfaction. However, Feinberg teaches a method and system for automated lien management which includes information regarding the statutory periods of individual jurisdictions. (Feinberg [0007], "The present invention provides a method and system for automating the preparation, recordation, tracking and filing of liens, assignments, and~ other legal documents relating to securing payment of a debt or other obligation or transfer of ownership of an asset." and [0012], "The guidelines set forth the content and format of the information required to properly file a lien in each given jurisdiction. The guidelines are compiled from statutes, regulations, and local practice for each locale."). It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the statutory requirements which the Feinberg system maintains with the MERS electronic mortgage program in order to provide efficient tracking and of ownership and proper servicing on the loans (MERS® Integration Handbook, Page 1).

Response to Arguments

Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW S. MEYERS whose telephone number is (571)272-7943. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jan Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Meyers/
Examiner, Art Unit 3689

/Janice A. Mooneyham/
Supervisory Patent Examiner, Art Unit 3689